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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/373,038    08/12/99    BELL    L    98-26

PM82/0829  
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EXAMINER

SHRIVER II, J

ART UNIT	PAPER NUMBER
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3611

*3*

DATE MAILED: 08/29/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/373,038

Applicant(s)

BELL ET AL.

Examiner

J. Allen Shriver

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 August 1999 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed. See the attached PTO Form 948 Draftsman Review for the corrections required by the Draftsman.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference number “43” on page 7, lines 3-4 is not shown in the Drawings. Correction is required.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Reference numbers “46”, “48”, “58” and “60” are shown in the Drawings, but not mentioned in the Specification. Correction is required.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "22" and "44" have both been used to designate the “console mounting bracket”. Correction is required.

### *Claim Objections*

5. **Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.** Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or

rewrite the claim(s) in independent form. Claim 10 is dependent from Claims 1, 5 and 6 which have already set forth "a console mounting bracket mounted to said sled."

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** In line 5 of Claim 1, the phrase "a shift lever assembly" is indefinite because "a shift lever assembly" was already introduced in lines 3-4 of Claim 1. This phraseology suggests that there are two "shift lever assemblies." Examiner suggests replacing the word "a" with either the word --the-- or the word --said--. The same correction is needed for the phrase "a brake lever assembly" in line 7 of Claim 1.

In Claim 9, the phrases "a parking brake assembly" and "a gear shift assembly" in lines 8-9 are indefinite because of the same reasons as set forth for Claim 1. Again, Examiner suggests merely changing the word "a" to either the word --the-- or the word --said--.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

9. **Claims 1 and 5-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (5,970,814).** Smith discloses a sled system (10) for mounting a shift assembly to a vehicle having a sled (12) having a predetermined configuration (See Fig. 1), the sled being adapted to fit onto a vehicle floor pan (See column 3, lines 28-29), the sled including a first opening (See Fig. 1) for accepting a shift lever assembly (18); the shift lever assembly disposed within the first opening, the sled including a second opening (See Fig. 1) for accepting a brake lever assembly (40); the brake lever assembly disposed within the second opening; and a plurality of fasteners (See column 3, lines 20-29); a console mounting bracket (See Fig. 2 and column 3, lines 20-29) fixedly attached to the sled; a console member (12) mounted to the console mounting bracket; an instrument panel mounting bracket mounted to the sled (See column 3, lines 20-29); and wherein the sled system is assembled as a module (See Figs. 1-2).

*Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (5,970,814).** Smith discloses “a gear shift assembly mechanism as set forth in paragraph 9 above, but does not specifically disclose an automatic or manual transmission gear shift assembly. Examiner takes Official Notice that it is inherent that either an automatic or

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manual transmission could be used in the sled system console disclosed by Smith. Both types of transmissions are old and well known in the art, and a person of ordinary skill in the art would have the requisite skill to accommodate either a manual or an automatic transmission in the sled system console taught by Smith.

**12. Claims 4, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (5,970,814) in view of Knox, Jr. (4,077,276).** Smith discloses a sled system (10) for mounting a shift assembly to a vehicle as set forth in paragraph 9 above, but does disclose wherein the sled includes a third opening including a transfer case shift lever assembly disposed in the third opening. Smith teaches a sled system console for a standard two-wheel drive vehicle that is not equipped with a transfer case to provide four-wheel drive capability. As disclosed in Knox, Jr., it is old and well known in the art to locate the transfer case shift lever in close proximity to the shift lever of the vehicle. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the sled system console disclosed in Smith to incorporate the extra transfer case shift lever needed for a four-wheel drive vehicle by providing an additional third opening to accommodate the placement of the transfer case shift lever next to the transmission shift lever assembly. The motivation for doing so would have been to provide a premanufactured assembly of an integrated floor console which includes all of the controls normally associated with floor consoles of a four-wheel drive that is readily assembled to the vehicle during manufacture of the vehicle. Therefore, it would have been obvious to combine Knox, Jr. with Smith to obtain the invention as specified in Claims 4, 12 and 13.

*Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miyadera (4,690,241), VanOrder et al. (5,887,485) and Yokoyama et al. (5,857,726) are relied on to show a console box with openings for the gear shift lever and the parking brake lever. Gray (6,086,129) and Kuroki (5,335,751) are relied on to show a floor console for a vehicle. Futschik et al. (5,924,333) is relied on to show a cover plate for the opening of a shift assembly of an automatic transmission of a vehicle. Burgei (4,864,886) and Nomura et al. (4,548,093) are relied on to show a floor console with integrated parking brake lever. Huitema et al. (4,548,094) is relied on to show handle control console assembly with multiple openings for multiple control levers. Sundquist (6,000,296) is relied on to show a transfer case lever that is integrated with the automatic transmission control lever.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on M-F (7:30-5:00).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4195 for regular communications and (703) 306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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JAS  
August 22, 2000

  
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